House Bill 1132 (AS PASSED HOUSE AND SENATE)

By: Representatives Dickey of the 136th, Harden of the 147th, Carter of the 175th, McCall of the 30th, and Carson of the 43rd

A BILL TO BE ENTITLED

AN ACT

To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to the "Fair Business Practices Act of 1975," so as to provide for oversight by the administrator of certain telemarketing practices; to provide for definitions; to provide for conduct by telephone solicitors; to provide for class actions; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to the "Fair Business Practices Act of 1975," is amended by adding a new Code section to read as follows:

"10-1-393.13.

(a) As used in this Code section, the term:

(1) 'ADAD equipment' means any device or system of devices which is used, whether alone or in conjunction with other equipment, for the purpose of automatically selecting or dialing telephone numbers and disseminating prerecorded messages to the numbers so selected or dialed.

(2) 'Business' means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, trust, or other legal entity.

(3) 'Caller identification service' means a type of telephone service which permits subscribers to see the telephone number of incoming telephone calls.

(4) 'In this state' means the call:

(A) Originates from this state; or

(B) Is directed by the caller to this state and received at the place to which it is directed.

(5) 'Subscriber' means a person or business that has subscribed to telephone service from a local exchange company or mobile, wireless, or other telephone service provider or other persons living, residing, or working with such person or business.

(6) 'Telephone solicitation' means any voice communication from a live operator, through the use of ADAD equipment or by other means, over a telephone line or computer network for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services or donation to any organization, but shall not include communications:

(A) To any subscriber with that subscriber's prior express invitation or permission;

(B) By or on behalf of any person or entity with whom a subscriber has a prior or current business or personal relationship; or

(C) Which convey a political message.

(b) Without otherwise limiting the definition of unfair or deceptive acts or practices under this part and without limiting any other Code section under this part, in connection with a telephone solicitation:

(1) At the beginning of such call, the person or entity making the call shall state clearly the identity of the person or entity initiating the call;

(2) No person or entity who makes a telephone solicitation to the telephone line of a subscriber in this state shall knowingly utilize any method to block or otherwise circumvent such subscriber's use of a caller identification service;

(3) The telephone number displayed on the caller identification service shall be a working telephone number capable of receiving incoming calls at the time the call is placed; and

(4) The identity of the caller displayed on the caller identification service shall accurately reflect the identity of the caller.

(c) Notwithstanding Code Section 10-1-399, a claim of a violation of this Code section may be brought in a representative capacity and may be the subject of a class action under Code Section 9-11-23. Damages for such violation shall be the greater of actual damages or $10.00 per violation.″

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.